

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

WILLIAM C. BOND,

*

Plaintiff

*

v.

*

Civil Action No. MJG-01-2600

KENNETH BLUM, SR., *et al.*,

*

Defendants

*

* * * * *

MOTION FOR RELEASE OF FUNDS
HELD BY BANK OF AMERICA THAT WERE PLACED ON HOLD
BY BANK OF AMERICA
PURSUANT TO WRIT OF GARNISHMENT (PAPER No. 146)

The Motion of William C. Bond and Alyson Bond, his wife, by Howard J. Schulman and Schulman & Kaufman, LLC, their attorneys, respectfully represents:

1. This Motion is virtually identical to the Motion for Release of Funds (Paper No. 139) filed by William C. Bond and Alyson Bond with respect to the Writ of Garnishment issued by Adelberg, Rudow, Dorf & Hendler, LLC to the Bank of America.
2. William C. Bond and Alyson Bond are husband and wife, having married on May 8, 2001. *See* Alyson Bond's Affidavit attached hereto.
3. On or about April 24, 2003 (entered April 25, 2003) this Court, by its Supplemental Judgment Order, ordered that a judgment be entered against William C. Bond in favor of McDaniel, Bennett & Griffin in the amount of \$83,667.65. No judgment has been entered against Alyson Bond, wife of William C. Bond.

4. On or about May 26, 2003, McDaniel, Bennett & Griffin caused the Clerk to issue a Writ of Garnishment to the Bank of America which was served, Plaintiff believes, that very same day. The aforementioned Writ was issued only as to the property of William C. Bond, Judgment Debtor. The Writ did not mention Alyson Bond. Based on the Writ of Garnishment, the Bank has put a hold on accounts #007080961935, #009080961935 and #003934599257.

5. Prior to the entry of the aforesaid supplemental judgment on April 25, 2003, William C. Bond and Alyson Bond, his wife, opened a checking account (#007080961935), a savings account (#009080961935) and a money manager account (#003934599257) at the Bank of America, N.A. Each of those accounts are accounts as tenants by the entirety. *See* attached Affidavit of Alyson Bond.

6. The Writ of Garnishment was issued pursuant to Maryland Rule 2-645. *See* Fed.R.Civ.P. 4(e) and 64. Both Maryland procedural and substantive law control. *Ospina v. Vanelli*, 34 F.R.D. 151 (D. Minn. 3d Div. 1964). Cts. & Jud. Pro. Code, § 11-603(a), (c)(2) and the case of *Maryland National Bank v. Pearce*, 329 Md. 602 (1992), make it clear that there can be no garnishment of these joint marital accounts since the accounts were opened prior to the April 25, 2003 judgment. Although the accounts are owned as tenants by the entirety, the Court need not, by virtue of § 11-603, decide whether the accounts are, in fact, titled as tenants by the entirety.

WHEREFORE, William C. Bond and Alyson Bond request that the accounts

aforementioned not be subject to garnishment by a judgment creditor of William C. Bond only issued at the request of McDaniel, Bennett & Griffin to the Bank of America and that the Court order that the garnishment on Bank of America accounts #007080961935, #009080961935 and #003934599257 be released.

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Attorneys for Plaintiff and Alyson Bond

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of May, 2003, a copy of the foregoing Motion was sent by facsimile (410-385-3700) and first-class mail, postage prepaid, to E. Hutchinson Robbins, Jr., Esquire, Miles & Stockbridge, P.C., 10 Light Street, Baltimore, Maryland 21202, attorneys for Bank of America, N.A.

HOWARD J. SCHULMAN